

**Land Tenure, Security, and
Reform in Ecuador**

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CHAPTER 1

TYPES OF LAND TENURE SYSTEMS

1. Introduction

(1) Movements for agrarian reforms in Latin America

Many countries in Latin America switched from a "primary export model" to "import substitution industrialization (ISI)" during the 1930's in the face of the Great Depression in 1929 and the subsequent prolonged recession in the world economy both of which caused a serious balance-of-payments problem to those countries. In the strategies of the ISI, agriculture was required to support industry by providing foreign exchange from exports for purchase of capital goods, cheap food for the expanding urban work force, and cheap labor for industrial sector (Grindle, 1986, 48). This means that the ISI demanded a low-wage policy in the agricultural sector and exploitation of landless peasants by landlords for the promotion of agricultural exports and capital accumulation, and that in agricultural sector, priority was put on the production of cash crops for export. In fact, during the 1940's, governments in the region launched "agricultural modernization" to support ISI. They extended credit, constructed infrastructure including irrigation canals and agricultural roads, and promoted mechanization for export-oriented agriculture. This policy deepened the gap between large landowners and landless peasants, because most beneficiaries of the policy were large landowners who mainly produced cash crops such as coffee, sugar, cotton and bananas. Consequently the dominant landholding structure in favor of large landowners was reinforced through this process. The concentration of landholdings caused not only occasional rural unrest, but also underutilization of land in the estates of large landowners and a shortage of staple crops, which faced many Latin American countries from the 1940's through the 1960's.

In the 1960's, those governments implemented agrarian reforms against the background of rural upheaval by landless peasants claiming a title to land, and low productivity in agriculture which was mainly caused by underutilization of land owned by large landowners. It is worth mentioning that the Cuban Revolution in 1959 and the Alliance for Progress, which was an anti-communism campaign initiated by the United States, accelerated agrarian reforms in many Latin American countries during the 1960's. At the end of the decade, it was generally found that in spite of efforts of those governments, the performance of the reforms was generally poor: they distributed land to a modest number of peasants, but could not change the dominant landholding structure favorable for large landowners, mainly because of lack of political leadership and limited administrative capacity of those governments, which made it difficult for those nations to prevent traditional social groups from intervening in the policy-making process concerning the reforms.

(2) Background of agrarian reforms in Ecuador

Ecuador did not have any substantial social changes after the independence from Spain in 1822¹, nor did the rest of colonial Latin America. The system of latifundio was retained in the

¹ Ecuador formed a part of Gran Colombia, when it became independent from Spain in 1822. In 1830, it became an independent state from Gran Colombia.

society, and the "hacienda" was owned by churches and criollos who played an important role in the battle for independence. Generally, haciendas were cultivated by slave Indians employed through "concertaje," a contract of slavery which was regularized by Mr. Juan José Flores, the first president of the Republic of Ecuador in 1831. However, in 1895 when Mr. Eloy Alfaro was elected as President of the Republic, the government started a series of liberal reforms called "Liberal Revolution" including expropriation of hacienda of churches in 1908, and abolition of concertaje in 1918 in response to overwhelming pressure from coastal cacao producers for liberalizing migration of labor from the "Sierra" (highland) to the "Costa" (coastal area). Those days Ecuador was the largest cacao exporter in the world, and many farmers worked as sharecroppers in cacao plantations of the Costa (Seligson, 1984, 12-15).

Under this situation, landlords in the Sierra who were running livestock farms, introduced a system of "huasipungo". Under the system, the Indians (called huasipungueros) were granted small plots of land (called huasipungos) and the right to gather firewood or pasture their livestock on hacienda lands. In return, the huasipungueros were required to work from four to five days a week on the landlord's estate (Barsky, 1984, 44). However, because of the hard working conditions imposed on huasipungueros in the system, the tension between landlords and huasipungueros increased. The government began suffering from rural upheavals and low productivity in livestock farms in the Sierra from the beginning of the 1950's.

Under this circumstance, the government of Velasco Ibarra conducted the first agricultural census in 1954. The results of the census clearly demonstrated accumulation of landholdings by a small number of landlords, and provoked heated discussions between the government and landlords on the project of agrarian reforms. These discussions culminated in the first agrarian reform in 1964, largely influenced by pervasive movements toward agrarian reforms in Latin America during the 1960's which I mentioned above.

2. Policies and legal frameworks of Ecuadorian agrarian reforms

In Ecuador there are two types of land tenure systems: private holdings, and communal tenure. The private-holding system is applied to most cases of landholdings, while the communal-tenure system is applied to a small part of the total agricultural land in the country. Therefore, the government focused on redistribution of land to individual landless farmers in the following laws and regulations for the agrarian reforms during the 1960's and the 1970's. It is worth mentioning that the country is geographically divided into three regions, namely, the Sierra, the Costa, and Amazonia (the tropical Amazon area). The government has promoted redistribution of land and colonization in the first two regions. At the same time, it has promoted colonization in Amazonia within the framework of the agrarian reforms, although colonization started earlier than agrarian reforms and was subsequently integrated into the framework of the agrarian reforms.

(1) Ley de Reforma Agraria de la Junta Militar de Gobierno (1964)

Against the background of rural upheavals and low productivity in the Sierra, the government legislated the first agrarian reform in 1964 with the Ley de Reforma Agraria de la Junta Militar de Gobierno. The basic objectives of this law can be summarized as follows:

- 1) to improve the distribution of land, productivity through efficient utilization of land, and conservation and renovation of natural resources,

- 2) to eliminate precarious forms of tenancy (which means indirect landownership such as a system of huasipungo.)
- 3) to impose obligations on landowners to fulfill their responsibilities and abide by the law.

Under these objectives, the Law stipulated the following as major points of the regulation (Donoso, 1992, 417-451):

- (a) Abolition of the system of huasipungo, and compensation for huasipungueros.
- (b) Expropriation of land with compensation if is not used for more than three years,
- (c) Expropriation of land with compensation and redistribution of the land to occupants, if original landowners do not take any judicial actions against the occupants who cultivate the land for more than three years.
- (d) Upper limits on farm size: 800 hectares in the Sierra, and 2,500 hectares in the Costa, plus a maximum of 1,000 hectares of pasture land in either region.
- (e) Establishment of the Instituto Ecuatoriano de Reforma Agraria y Colonización (IERAC) which is a government agency responsible for implementation of agrarian reforms.
- (f) Promotion of consolidation of minifundios² to single-family units by means of land sales or formation of cooperatives.
- (g) Rent of land is permitted until eight years after the enactment of the Law.
- (h) Sharecropping (aparcería) is permitted.

As is shown above, this law can be regarded as the first comprehensive approach toward agrarian reforms. It forms the basic legal framework for all the subsequent efforts of the Ecuadorian government for agrarian reforms. However, there is criticism that ambiguity about the criteria for expropriation of land made it difficult for the law to have a substantial effect on land redistribution (Barsky, 1984, 152).

(2) Ley de Abolición del Trabajo Precario en la Agricultura (1970)

In the latter half of the 1960's, rice became very important as a staple crop. However, the drought in 1967 and 1968 caused a drastic decrease in rice production in the Costa, and made it difficult for sharecroppers and renters to pay rent to landlords. This problem worsened the situation of conflict between landlords and sharecroppers. Landless farmers began demonstrating against high rents imposed by landlords.

Against this background, the government passed the Ley de Abolición del Trabajo Precario en la Agricultura in 1970. With this law, it decided to prohibit sharecropping and land-renting, and to promote redistribution of land through the expropriation of lands that sharecroppers and renters have cultivated (Barsky, 1984, 177-187).

(3) Ley de Reforma Agraria (1973)

Ecuador began commercialization of crude oil in 1972, during the military government of the General Rodríguez Lara. The government placed an emphasis on industrialization in its development policies, given a possibility of stable revenue from the export of crude oil. In the field of agriculture, the government pursued modernization of agriculture and promotion of

² Minifundio means holding of fewer than 5 hectares.

agroindustry through technical assistance and the construction of agricultural infrastructure such as irrigation canals.

In line with these development policies, the government passes the Ley de Reforma Agraria in 1973. With this law, it decided to eliminate upper limits on farm size in order to support the development of agroindustry. The government also reinforced expropriation of land by imposing additional conditions, including expropriation of land which is not used for agriculture. In this connection, it should be mentioned that the military government also issued the "Ley de Fomento Agropecuario" in 1979 to promote agroindustry at the end of the military regime (Barsky, 1984, 249-252).

(4) Integrated rural development program (after 1979)

In the democratic regime after 1979, the government has promoted integrated rural development programs. Agrarian reforms have been incorporated into the framework of the program (Barsky, 1984, 275-279).

3. Colonization

After the independence, Ecuador experienced expansion of colonization in several specific periods: the first expansion in the Costa in the latter half of the 1800's as a consequence of the cacao boom in the area; the second expansion in the Costa during the 1920's and the 1930's as a result of the shift of labor from cacao to rice production in the face of the crisis in exporting cacao; the third expansion in the Costa in the 1940's on account of the banana boom; the fourth expansion in the Amazonia from the 1950's up to the present because of construction of roads by oil companies. In 1936 the government issued "La Ley de Tierras Baldías y Colonización". This law has formed a basic legal framework for colonization.

During the 1972-1979 period of military rule, the government promoted colonization to alleviate population pressure in the Sierra and to secure border territories. In 1977, the government issued the Law of Colonization of the Amazon Region to institutionalize the government-sponsored colonization in the area. This law also created the "Instituto Nacional de Colonización de la Región Amazónica" to facilitate the implementation of the government-sponsored colonization programs in the area (Zevallos, 1989, 49-50).

CHAPTER 2

LAND DISTRIBUTION

Ecuador is one of the typical countries in Latin America which have been suffering from inequality in landholdings. The following data on Gini coefficients of land distribution in 1954, 1974 and 1987, clearly shows the consistent tendency of land accumulation in that country, in spite of the government's efforts for agrarian reforms during the period:

Year	1954	1974	1987
Gini Coeffi.	0.760	0.754	0.758

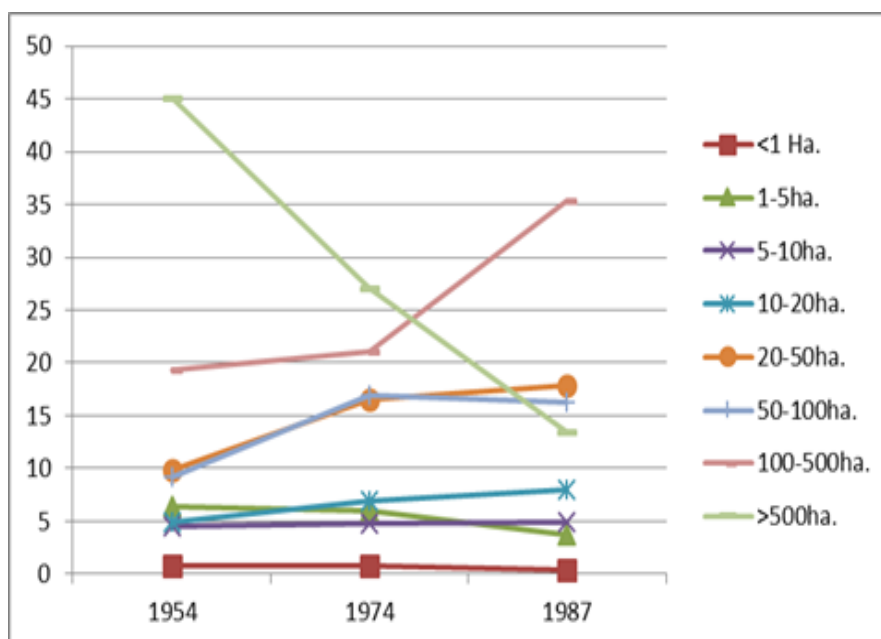
As is shown in tables and charts on the land distribution, in the case of 1987, 48.8% of the total agricultural land is categorized in the farm size of more than 100 hectares, and this large portion of the land is owned by only 3.6% of the total farmers.

According to the reports on "Ecuador Land Titling Project Evaluation," within the framework of agrarian reforms IERAC had issued titles to about 200,000 rural properties until around 1990 since its creation in 1964 (Lambert, 1990, 1). The effect of the reforms on the trend of land distribution can be seen in the data attached to this chapter: in the categories of "10 to 20 hectares" and "20 to 50 hectares" in farm size, both of which can be considered to be target categories to be expanded through the agrarian reforms, the percentage of area and farms was increased from 1954 to 1987. However, the drastic increase of the percentage of area and farms in the category of "100 to 500 hectares" is considered to have completely offset the positive effect. Taking into consideration the existence of a number of landless farmers which are not counted in the data, I have concluded that the agrarian reforms in Ecuador made a very modest contribution to the basic objective of equality in land distribution.

Land Tenure (Percentage of Area)

Size of Farms	1954	1974	1987
<1 Ha.	0.77	0.8	0.39
1-5ha.	6.44	5.93	3.74
5-10ha.	4.53	4.74	4.85
10-20ha.	4.91	6.96	8.03
20-50ha.	9.86	16.54	17.89
50-100ha.	9.12	16.96	16.29
100-500ha.	19.27	21.06	35.32
>500ha.	45.12	27.02	13.47
	100.02	100.01	99.98

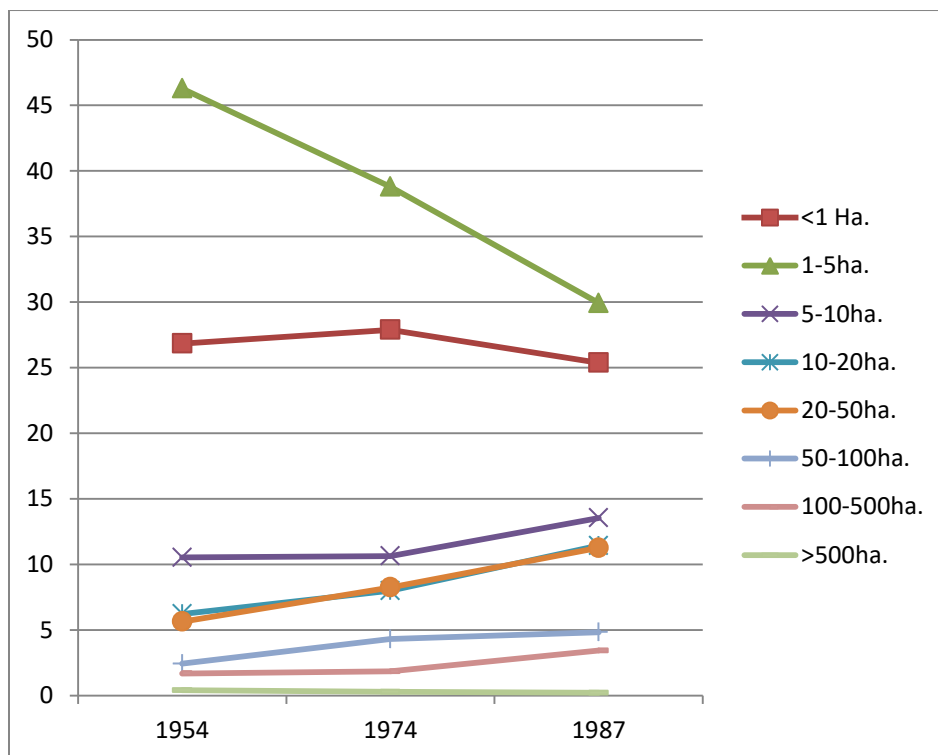
Source: Censos agropecuarios de 1954 y 1974;
Cuadros Estadísticos Secundarios del SEAN para 1987



Land Tenure (Percentage of Number of Farms)

Size of Farms	1954	1974	1987
<1 Ha.	26.84	27.89	25.38
1-5ha.	46.28	38.8	29.92
5-10ha.	10.53	10.64	13.54
10-20ha.	6.22	7.99	11.43
20-50ha.	5.64	8.24	11.26
50-100ha.	2.42	4.3	4.83
100-500ha.	1.68	1.84	3.42
>500ha.	0.4	0.28	0.21
	100.01	99.98	99.99

Source: Censos agropecuarios de 1954 y 1974;
Cuadros Estadísticos Secundarios del SEAN para 1987



CHAPTER 3

CONFLICTS CONCERNING LAND

1. Ambiguity in the standpoint of the government

Since the independence from the Gran Colombia in 1830, Ecuador has been suffering from domestic conflicts over land between landlords and landless peasants. In the first half of the twentieth century, rural upheavals by landless peasants who claimed title to land which they had cultivated were occasionally so powerful that they gave a real threat not only to the security of landlords, but also to the political stability of the government. Therefore, the government had enough reasons to intervene in the conflicts and changed the land tenure system to less oppressive one. Before the initiation of agrarian reforms from 1964, the government intervened in the conflicts mainly to recover political and social stability in the country.

Since the first agrarian reform law in 1964, all of the conflicts over land have been dealt with by the government within the legal framework of the agrarian reform. It is obvious that the primary goal of the agrarian reform was not to alleviate tension between landlords and landless peasants, but to promote agricultural productivity through distribution or redistribution of land to landless peasants, although there is a high correlation between distribution of land and mitigation of the conflicts. Therefore, all the actions of the government including those for the conflict-solution over land have been taken based on the basic goal of promotion of agricultural productivity which was clearly stated in the first agrarian reform law issued in 1964 (Donoso, 1992, 417-451).

However, it should be mentioned that there is a serious problem of ambiguity about the goals of the reform, because distribution of land is not the only way to promote agricultural productivity. In other words, it is not clear which is more important for the government between redistribution of land and the promotion of agricultural productivity. In fact, within the framework of the agrarian reform, the government has supported landlords in expanding agricultural production for export, and this action has been considered consistent with the goal of the agrarian reform by the government. But, I think that it would generally strengthen concentration of land if the government supports export sectors in agriculture such as banana and cacao plantations through extension of subsidies and credits.

Because of this inconsistency or the government's double standard, the ambiguity of the goal of the reform has made the government unsuccessful in coping with conflicts over land. Further, I think that this problem has aggravated the conflicts over land.

2. Conflicts and alliances among different interest groups

Historically there have been two kinds of conflicts over land in Ecuador: conflicts between landlords and landless peasants in the Sierra and the Costa, and those between the government and indigenous people in the Ecuadorian Amazon.

In the Sierra and the Costa, several types of land tenure system have been introduced one by one. In addition, colonization has been promoted independently since the Independence. Each land tenure system has been created and abolished or modified subsequently as a result of intervention by the government in conflicts between the two interest groups. As is shown below,

in some cases the government has supported landless peasants in obtaining title to land, but in other cases, it supported landlords in expanding their agricultural production for export.

In the Ecuadorian Amazon, there have long been conflicts between the government and indigenous people not only for title to land, but also for governance of the area. They have claimed creating a state whose legal system they proposed is not compatible with that of the government.

(1) In the Sierra and the Costa

a) Under the system of concertaje in the Sierra during the 1830-1918

The first land tenure system which the government regularized after the independence was the system of concertaje. This system was introduced to support the traditional system of latifundio which the country inherited from Spanish conquerors, and enabled landlords to systematically enslave native Indians for labor force in their large estates. This system caused problems of exploitation of Indian peasants and immobility of labor. The former led to rural upheavals by slave Indians who claimed their liberty from estates of landlords in the Sierra, and immigration in the Costa to work as sharecroppers in cacao plantations. The background of this movement was that the Costa was in a boom of cacao export those days, and cacao producers in the area also wanted to get more labor through the system of sharecropping for increased production (Seligson, 1984, 12-15).

In the situation mentioned above, I recognize the conflict between landlords and slave Indians in the Sierra, and the alliance of interests between cacao producers in the Costa and the slave peasants in the Sierra who wanted to work as sharecroppers in cacao plantations in the Costa. The government decided to abolish the system of concertaje in 1918, largely because of the political pressure of cacao producers in the Costa.

b) Under the system of huasipungo in the Sierra during the 1918-1964

After the abolition of the system of concertaje, landlords in the Sierra who were running livestock farms, introduced the system of huasipungo under which Indians (called huasipungueros) were granted small plots of land, but were required to work from four to five days a week on the landlord's estates (Barsky, 1984, 44). As this system was similar to that of concertaje in substance, it could not alleviate rural upheavals by huasipungueros. They claimed title to land which they had cultivated for more than several years. In addition, the government gradually became aware of the problem of low productivity mainly caused by unproductive use of land by landlords under the system of precarious tenancy (Seligson, 1984, 17).

In this situation, the government decided to implement the agrarian reform and issued the first agrarian reform law ("Ley de Reforma Agraria de la Junta Militar de Gobierno") in 1964. As a result of the reform it abolished the system of huasipungo, and began promoting redistribution of land to former huasipungueros (Donoso, 1992, 417-451). This intervention of the government in the conflict was completely justified within the newly established legal framework of the agrarian reform. I think that the government had to place more importance on the issue of redistribution of land than on agricultural productivity in the decision-making process, because it was politically very dangerous for the government should rural upheavals be prolonged. Consequently, the government action supported landless peasants in getting title to land.

c) Under the system of sharecropping and rent in the Costa during the 1964-1970

Sharecropping and rent of land were conditionally permitted in the "Ley de Reforma Agraria" promulgated in 1964. However, conflicts between landlords of rice-producers and sharecroppers and renters were gradually intensifying in the Costa. Here, the drought of 1967 and 1968 caused a drastic decrease in rice production in the region, and aggravated the economic situation of the landless peasants. Consequently, they began demonstrating against high rents imposed by landlords (Barsky, 1984, 174).

The government intervened in the conflicts by promulgating the "Ley de Abolición del Trabajo Precario en la Agricultura" in 1970 to abolish the system of sharecropping and rent, and promote redistribution of land to landless peasants in the Costa. The new law was issued quite in line with the basic goals of the agrarian reform. In the process of legislation, the government focused on facilitating redistribution of land to avoid political and social instability. This action of the government consequently supported the landless peasants in obtaining title to land.

d) Under the private owner-operator system after the 1970

In the first half of the 1970s, Ecuador started industrialization on the basis of revenue from export of crude oil. Since then, the government has basically placed importance on industrialization and promotion of export in its development policies, although the agricultural sector has also been regarded as critical as a whole for stable food-supply to increasing population, and some of the agricultural products such as banana, coffee and cacao has been considered very important for export. At the same time, the government was gradually moving toward democratization, and in 1979 the government was finally transformed from a military to a democratic government.

It is recognized that in the process of these policy and social changes, there have been conflicts between industry and agriculture in national development policies of the government, between agro-industry and conventional agriculture in agricultural sector, and between promotion of gross domestic production in agriculture and increasing demand for land-redistribution in the course of development in democracy. All of these conflicts have made it difficult for the government to clarify its standpoint toward the agrarian reform and land tenure systems since the 1970's. During the military regime 1972-1979, the government placed priority on industrialization in its development policies. In the field of agriculture, it pursued modernization of agriculture and promotion of agro-industry through technical and financial assistance and construction of agricultural infrastructure.

For this objective, the military government promulgated the "Ley de Reforma Agraria" in 1973 which eliminated upper limits on farm size to support agro-industry, and also tightened measures for expropriation of unproductively used land (Barsky, 1984, 217-220). In 1979 at the end of the military regime, the government also issued the "Ley de Fomento Agropecuario" to further promote agro-industry (Barsky, 1984, 246-252). It is very clear that during the military regime the government consistently supported agro-industrialists who were all large landowners. In this situation, the Ecuadorian Indian Federation (la Federación Ecuatoriana de Indios) which represented interests of small-scale farmers criticized the government for its alliance with the Chambers of Agriculture (las Cámaras de Agricultura) which represented interests of agro-industrialists (Barsky, 1984, 237). Since the beginning of the democratic regime in 1979, the government has placed emphasis on integrated rural development and the promotion of agro-exports, and the agrarian reform has been incorporated into the framework of these new

programs. This fact indicates that the government has changed its strategy for the agrarian reform from land-distribution to the integrated rural development approach (Haney Jr. and Haney, 1989, 73) and the promotion of agro-exports. In this situation, conflicts over land had been decreased comparatively (Rosero, 1990, 34).

However, the tension between the government and small farmers of indigenous Indians rapidly increased in June of 1994 when the government of the President Sixto Duran Ballen issued a new land law which aimed at opening land markets. The new law also restricted public expropriation. Small farmers strongly protested against the promulgation of the law by holding large-scale demonstrations in major cities for fear that they would lose out to large landowners (The Economist, June 25, 1994).

(2) Colonization in the Ecuadorian Amazon

The colonization in the Ecuadorian Amazon started during the 1960's, when road-construction for the preparation for oil exploitation facilitated immigration into the area (Barsky, 1984, 298). During the 1972-1979 period of military rule, the government promoted colonization in the Ecuadorian Amazon to alleviate population pressure in the Sierra and to secure border territories. In 1977, the government issued the Law of Colonization of the Amazon Region to institutionalize the government-sponsored colonization in the area. This law also created the Instituto Nacional de Colonización de la Región Amazónica to facilitate the implementation of the government-sponsored colonization program (Zevallos L., 1989, 49).

The Ecuadorian Amazon has been a part of the public land of the government since the independence. However, the problem is that there are indigenous people in the area whose estimated population was 94,700 in 1990 (Uquillas, 1993, 173) and the government has not taken substantial actions to officially recognize their rights for the home land. On the other hand, the Ecuadorian government has been encouraged to protect their rights by recent movements of the Treaty of Amazon Cooperation, which was signed in 1977 by eight countries in the Amazon area including Ecuador. The protection of indigenous Indians is one of the critical issues for the Treaty in addition to the conservation and utilization of natural resources in the area.

The present major issue is that the Organización de Pueblos Indígenas de Pastaza which is one of the local organizations of indigenous people has claimed autonomy over their territory. This proposal violates not only legal regulations of the government, but also rights of colonos and other indigenous people who have immigrated there (Uquillas, 1993, 177).

3. Border disputes between Ecuador and Peru

Since the Ecuadorian government lost almost a half of its territory to Peru as a result of military conflicts between the two nations and a subsequent agreement of the Protocol of Rio de Janeiro signed on January 29, 1942, there has been a tension over the border between the two countries. Basically the Ecuadorian government has not intended to claim the recovery of the lost territory. However, because of ambiguous definition of the new border between the two nations in the Protocol of Rio de Janeiro, there have been disputes over the definition of the new border which has even caused small-scale military conflicts several times since then. The latest military conflict occurred from January to February of 1995³.

³ I gained the information on this issue from the Ecuadorian Ministry of Foreign Affairs through Internet.

CHAPTER 4

TITLING AND SECURITY OF TENURE

1. The status of land titling

(1) Present situation of land titling

In the agrarian reform sector, the colonization sector, and the indigenous communities in the Amazon area, there are many farmers who do not have a title to land mainly because of very complicated procedures and the resultant delays for land titling at the Instituto Ecuatoriano de Reforma Agraria y Colonización (IERAC). In 1984, there were approximately 41,000 pending titles at IERAC. This was equivalent to some 33 percent of all cases with which IERAC had dealt (Seligson, 1984, 68-69). From 1964 to 1985, IERAC adjudicated through its agrarian reform programs 744,395 hectares which accounted for 8 percent of all agricultural land in the country in 1985, and redistributed the land to 99,673 families. However, peasants acquired titles to land for about 30 percent of the total adjudicated area (Zevallos, 1989, 50). During the same period, over 2.5 million hectares in colonization areas were granted to about 60,000 families. The main site of colonization was the Amazon, where one-half of the colonized land was located (Zevallos, 1989, 51). According to the results of a survey conducted in 1986 in Coca which is one of the regions located in the Ecuadorian Amazon, only 39.4% of farmers had a title to land, 42% of farmers were applying for their title, and the remaining 16% had only land (Uquillas, 1993, 178). Until March of 1991, IERAC adjudicated approximately 2 million hectares to 316 indigenous communities which had some 13,300 families in the Amazon area (Uquillas, 1993, 179). However, there were still high percentage of indigenous communities which did not have title to land (Uquillas, 1993, 176).

(2) Problems for the security of land tenure

There have been many factors which have contributed to insecurity of land tenure in Ecuador. I think that we can classify these factors into two categories: administrative problems and the failure in the basic land system. I think that the latter is more serious than the former, because it affects overall performance of the government's policies concerning land including property registration system, rural taxation system, rural credit system, land management and land use planning, and promotion of land market (Lambert, 1990, 2). With respect to administrative problems, it is mentioned that the following three factors are major problems for the security of title (Seligson, 1984, 58-71):

(a) Ambiguity of definition concerning critical points of the agrarian reform law such as "minifundio" which is prohibited by the law, concrete procedures of compensation in connection with expropriation including whether or not compensation should be paid by IERAC, and the amount of compensation in each specific case. Consequently, adjudication was not made systematically, but was often subject to the discretion of IERAC. This situation created a enormous power of authority for the director of IERAC.

(b) Delays in titling by IERAC as a result of the very complex and time-consuming procedures for titling, lack of sufficient capacity of IERAC, and corruption in the administrative process which was caused by the situation mentioned above in (a).

(c) Ambiguity concerning the second mortgage holder's rights if they extend agricultural credit to landowners who are presently financed by IERAC for the acquisition of land.

As I mentioned at the beginning of this section, a more serious issue is the failure in the basic land system, because the security of a land title can only be provided through a well organized basic land system which gives legitimacy to that title (Lambert et al, 1990, 2). However, as Lambert et al mentioned in their report, the land system in Ecuador cannot provide tenure security, because it lacks a means of providing clear identification of properties (a cadaster), a clear identification of property owners, and a means of verifying ownership through property registry. In connection with this point, they reported the following chaotic situation on land tenure and property registry in the country:

Many of the properties without currently registered titles had titles at one time but no effort had been made to keep these titles up-to-date after inheritances or land sales occurred. In other cases, titles granted by IERAC had not been registered (which is required to establish ownership), or land which had never entered the formal land system was traded with informal and oral contracts. Local land market studies have shown that landholders did not register their properties because of the complicated and expensive process to do so, and because in many cases, the advantages of formal registration compared to the security provided by the traditional transfer processes, were not apparent (1990, 2).

Consequently, the government does not have the basic information about land ownership and land use to support the rural tax system, rural credit institutions, land management and land use planning, and a capitalist land market (Lambert, 1990, 2). In order to establish a well organized basic land system, it is indispensable to generate cadastral data through making a complete inventory of rural properties, and to establish an efficient network among the authorities concerned with procedures for land titling and property registry. In Ecuador, IERAC is responsible for issuing titles to land, while the National Directorate for Cadaster and Valuation (DINAC) is in charge of rural fiscal cadasters. In addition, the Supreme Court of Justice has jurisdiction over the cantonal property registries (Lambert, 1990, ix). Therefore, it is very critical for the Ecuadorian basic land system to establish an efficient network among these three organizations.

2. Taxation systems based on land ownership

The Ecuadorian government has taxation systems based on land ownership. In rural areas, it has a rural land tax and a property transfer tax, both of which contribute to municipal tax revenues.

(1) Rural land tax

DINAC establishes the valuations for the rural land tax and submits the tax bills to each municipality for collection. DINAC receives 10 percent of the tax due. It maintains countrywide cadastral records but usually relies on municipalities to update valuations (The World Bank, 1991, 92). Rural land tax receipts fell from 9.2 percent of total municipal fiscal revenues in 1982 to only 4.3 percent in 1987. This mainly reflects poor maintenance of the cadasters and property valuation (The World Bank, 1991, 92). DINAC has established uniform tax bases for rural lands

and has helped compensate for the administrative deficiencies of the municipalities. Nevertheless, problems remain. Tax bills should be issued well in advance. Cadasters should be updated across the country. Better coordination between DINAC and the municipalities is needed. DINAC needs to speed up its registration of changes reported by the municipalities and the latter need to improve reporting to DINAC regarding changes in land use (The World Bank, 1991, 93).

(2) Property transfer tax

This tax is levied on transfers of ownership of real estate. Receipts accounted for between 13 and 15.4 percent of municipal tax revenues during the period 1982-87. The fiscal valuation is used as the minimum basis for the tax, but generally the tax is based on prices as reported by the interested parties, usually substantially below market prices. The rate for this tax is very high, starting at 4 percent on amounts of 500,000 sucres and reaching 8 percent on amounts above 10,000,000 sucres. This discourages transfers, and stimulates underreporting (The World Bank, 1991, 93).

3. Major issues concerning property rights and taxation

As is mentioned above, it is critical for the Ecuadorian government to take necessary measures to establish a comprehensive system for the efficient generation and maintenance of cadastral data in each municipality, and to promote better coordination among authorities responsible for land titling, property registry and taxation in order to improve security of property rights and efficiency and effectiveness in taxation. As a part of the efforts of the Ecuadorian government to establish the above-mentioned system, it started studying a possibility to revise the present property registry law and to establish national cadaster law in 1989 (Lambert, 1990, 37-39).

Another important issue is the Agricultural Modernization Law which was promulgated in June of 1994 by the government of President Sixto Duran Ballen. This law basically aims at opening land markets, but it also restricts public expropriation. Small farmers strongly protest against this law, because they fear that they would lose out to large landowners.

Moreover, resource degradation is also another critical issue which is closely related to poor management of government properties. It is recognized that inappropriate tenurial arrangements have been contributing to tropical deforestation, soil erosion, and degradation of coastal ecosystem in Ecuador (Southgate and Whitaker, 1992).

CHAPTER 5

INFORMAL AND FORMAL LAND MARKETS

1. The bipolar land market

There has been a bipolar land market in Ecuador, as in most other Latin American countries. At one end, a small number of wealthy families have purchased properties to consolidate their estates, or have distributed their holdings to their offspring in the form of inheritance (Thurner, 1989, 13-22). At the other extreme have been purchases of small pieces of land by peasants. This type of transaction was initially realized as a result of conflicts between peasants and landlords and enforcement of the agrarian reform by the Instituto Ecuatoriano de Reforma Agraria y Colonización (IERAC). Peasants have also distributed their small parcels to offspring. This typically represents a fragmentation of holdings which have already been too small (Seligson, 1984, 110-111; Thurner, 1989, 29). At the same time, there have also been transactions of small parcels among peasants in which peasants who succeeded in capital accumulation by additional income gained through wage labor have been expanding their parcels, consolidating neighboring plots of land (Seligson, 1984, 116). This trend has brought an economic gap among peasants in the same community (Forster, 1989, 102).

2. Formal and informal markets

Formal markets can be defined as any transaction of land which is accompanied by legal procedures for selling and purchase of land, acquisition of official title to land and registration of the property. On the other hand, the informal market can be defined as any transaction of land which is not accompanied by such procedures, and is often made through an oral contract among family members, relatives and friends. It is quite obvious that people have to follow the legal procedures if they want to maintain the security of land tenure. Moreover, if peasants need financial assistance from IERAC to buy a parcel of land, it is indispensable for them to follow the legal procedures.

However, there have been many other cases in Ecuador in which land has been transacted through informal markets. Why do they tend to omit the legal procedures concerning land transactions? It is recognized that there are the following disincentives to comply with the official procedures (Seligson, 1984, 58-71, 111-112; Lambert, 1990, 39):

- (a) very complicated procedures and resultant delays for land titling at IERAC.
- (b) the requirement that IERAC review and approve all subdivision.
- (c) corruption in the administrative process at IERAC.
- (d) difficulties of peasants in receiving agricultural credit from financial institutions, even if they have a title to land, because of unwillingness of the institutions to extend credit to small-land owners.

All these obstacles tend to discourage people from following official procedures concerning transactions of land. This problem has caused not only insecurity of land tenure, but also serious deficiency in the basic land system (Lambert, 1990, 2).

3. Relationship between land markets and land tenure systems

It is very clear that the agrarian reform which started in 1964 has been the major force to promote acquisition of a parcel by landless peasants and their participation in land markets. In fact, during the 1960's and 1970's, land sales and transfers from landlords to peasants became more frequent against the background of the intense social and political pressure surrounding the agrarian reform (Forster, 1989, 99). One of the basic objectives of the reform was to improve agricultural productivity through abolishing precarious conditions of work including sharecropping and land-renting. In this sense, the owner-operator system which was established by the Ley de Abolición del Trabajo Precario en la Agricultura in 1970 has been playing a significant role in promoting acquisition of a parcel by peasants and their participation in land markets. This is not only because the owner-operator system is one of the necessary conditions to facilitate redistribution of land from landlords to peasants, but also because this land tenure system gives peasants a status to participate in land markets.

4. Regional differences concerning land markets

There have been some differences in the progress of redistribution and transactions of land between the Sierra (highlands region) and the Costa (coastal region). These differences are basically attributable to higher pressure of population and more intense conflicts over land in the Sierra. The differences became evident especially during the 1970's when the country entered into the era of industrialization that resulted from the oil boom, and agroindustries were promoted by the government. In this process, large landowners tried to transform their mode of production from labor-intensive to capital-intensive one, by getting subsidies and credit from the government. They also tended to sell a part of their land to gain capital, and to invest it in urban industries (Zevallos, 1989, 55). It is to be mentioned that the owner-operator system which I mentioned above in (3), and the Ley de Reforma Agraria which the government issued in 1973 to promote productive use of land through tightening measures for expropriation, accelerated movements toward agroindustries and redistribution of land in both regions.

During the period, haciendas of the Sierra were modernized rapidly for agroindustries, while the size of the haciendas was reduced through sales of marginal lands. Generally, landlords divided land on hillsides into small plots, and sold them to peasants in order to alleviate tension of conflicts with peasants. On the other hand, better lands were retained by landlords. Agroindustries were developed in response to increasing urban demand for dairy products and other processed foodstuffs (Zevallos, 1989, 53).

In the Costa, subdivisions and sales of land were also a reaction to the agrarian reform and the emergence of new urban investment opportunities, particularly in Guayaquil. However, there was less subdivision of land in the Costa, because peasant pressure for land was not so intense as that in the Sierra (Zevallos, 1989, 55).

5. Land Values

Land values may be quite different in each region of the country. Even in the same region, they generally vary according to geological and topographical characteristics of land including fertility and accessibility to water and markets, and their usage including type of crops which are cultivated. However, there are no available data on land values which cover all the

rural areas of the country.

In this situation, I would like to introduce here one example of land values in the northwest region of Ecuador to show a specific idea about the land values. According to results of a survey which was conducted in 1992 by Dr. DeWalt in connection with a socioeconomic appraisal of a reforestation project in the northwest region of the country, land prices in the region in early 1992 ranged from \$184 per hectare to \$770 dollars per hectare, depending on the quality of the land and improvements that had been made to it. In this project, land which had been used for plantations was purchased from farmers for reforestation purposes. He also mentions in his reports that although the lower figure is much more common, there is a competitive land market in the region that helps to insure that a fair market value is being paid for property (1992, 12).

CHAPTER 6

SYSTEMS OF LAND MANAGEMENT

1. Peasant farms

Since the beginning of the 1970's, there has been a bimodal agricultural system in Ecuador: large-scale and capital-intensive agriculture by agroindustrialists on one hand, and small-scale agriculture by peasants on the other. The latter type of agriculture is managed in peasant firms, and these firms can be divided into two types according to size: (1) family firms which are large enough to meet the needs for maintenance and reproduction of the peasant family, and (2) subfamily farms which are too small to permit the survival of the peasant household on the basis of agricultural production alone. In the latter case, the peasant family must rely on other sources of income such as wage labor and artisan work, which give them semiproletarian status (Zevallos, 1989, 57).

There are different economic situations concerning peasant farms between the Sierra and the Costa. In the Sierra, peasant plots were usually located on marginal land of poor quality, when they were awarded to landless peasants by the agrarian reform. These plots were then subdivided through inheritance. Insufficient land and soil erosion led to semiproletarianization of all or some of the members of the peasant family (Zevallos, 1989, 58). In the Costa, rice tenants were given property rights over plots which they had been cultivating prior to reform. The plots awarded through the agrarian reform were larger than those in the Sierra, and the land was of good quality. In addition, the reform beneficiaries gained immediate access to credit and received technical assistance from the state. These factors, combined with a favorable price policy, enabled many peasant producers to increase output and productivity level (Zevallos, 1989, 58).

2. Production cooperatives

The first agrarian reform law issued in 1964 intended to promote agricultural productivity and to improve living standards of peasants (campesinos) through transfer of inefficiently used hacienda lands to landless peasants and integration of smallholders into the national economy through production cooperatives. Therefore, IERAC promoted creation of the production cooperatives, whenever it sold expropriated land to landless peasants (Haney and Haney, 1989, 72). IERAC granted páramo (communal grazing land) to each production cooperative, and also decided borders between the cooperatives. The cooperatives are often led by a cacique (indigenous leader)(Forster, 1989, 105), and comuneros (members of cooperatives) collectively make decisions concerning issues such as how to use páramo, collective works in the same community, how to solve border issues in the same community and purchase and usage of agricultural machinery.

In addition to the functions for internal affairs, the cooperatives play an important role in external affairs especially in border conflicts with neighboring cooperatives and landlords. Peasants are required to pay a membership fee to become beneficiaries of the cooperatives.

3. A case study in Chimborazo

I think that systems of land management are different in each region of the country, because the systems are naturally affected by internal and external socio-economic conditions of each region. Moreover, even in the same region, there may be some variety in systems, which make it very difficult to generalize the trend. In spite of these problems, I think that it is highly significant to study specific cases in order to understand actual situations concerning land management and peasant farms in communities.

For this purpose, I would like to introduce here a case study in Chimborazo which was conducted in 1983 by Emil B. Haney Jr. and Wava G. Haney. This study typically demonstrates economic difficulties of peasants in living on and maintaining their small parcels in the Sierra. The following is the major points of their reports (Haney and Haney, 1989, 70-91).

(1) Province of Chimborazo

Chimborazo is one of the provinces in the Sierra of Ecuador. In the early 1960's, it had the most traditional agrarian structure and the most backward rural areas in the country. In the province, there is the large indigenous population which collectively demonstrated against the latifundium and claimed their land during the 1960's. Consequently, the province was most affected by the agrarian reform program in terms of land area and beneficiary numbers. Most of the land in the province is rolling to very steep. Despite the fact that many of the soils are of relatively recent volcanic origin with good permeability and natural fertility, topography poses a severe constraint on agricultural activity. Increasing demographic pressure and intensive land use have taken a heavy toll on the province's natural resource base. In many areas, accelerated erosion has caused irreversible damage. In 1981 about one-third of the province's land was cultivated or lying fallow, a little over one-third was pasture, and the remaining one-third was páramo⁴ and wasteland. Most of the pasture was unimproved and overgrazing was pervasive throughout the province. In recent decades, much of the province's out-migration has flowed toward the country's largest cities, Guayaquil and Quito. The 1982 population census showed that the number of Chimborazo-persons living outside the province nearly equaled the number of urban inhabitants living in the province.

(2) Farm size and tenure

The 1954 agricultural census showed a very skewed land-distribution pattern for the province. Over 85 percent of the farms was under 5 hectares in unit farm-size and controlled only 17 percent of the total farmland in the province. At the other extreme, only 0.15 percent of the farms had 500 hectares or more in unit farm-size and controlled 48 percent of the province's farmland. Therefore, before the agrarian reform, Chimborazo was a province of latifundios.

However, some 1980 data on the agrarian structure of the province show a significant increase in the number and prominence of medium-sized farms when compared with 1954. Between 1954 and 1980, the number of farms with 20-100 hectares more than doubled, as did the amount of farmland they occupied. On the other hand, small-sized farms of less than 5 hectares increased in absolute numbers from 28,625 to 37,013, but decreased in proportion of the total from 86.1 to 76.0 percent. According to the results of a survey which they conducted with

⁴ Páramo is communal grazing land.

522 sample households in the province in 1983, the most prevalent type of producer is the owner-operator. While the current generation of proprietors is more numerous, it has far less power and wealth than the preceding generation of landowners. Only 6 percent of the households do not own any land and only about 15 percent works on land owned by others. The mean size of land owned is 2.2 hectares in the north, 2.7 hectares in the central region, and 3.5 hectares in the south of the province. About two-thirds of the parcels owned in 1983 were acquired by purchase, and the remaining one-third were either inherited or acquired through agrarian reform. The land quality of two-thirds of the farms is classified by the owners as average or poor. Only one-third of the producers have irrigation. A large number of farmers in the province still do not have clear title to their land, and consequently do not qualify for institutional credit and other essential inputs.

(3) Family income

For the province as a whole, 60 percent of the gross family income comes from agricultural production while 25 percent comes from wages. In the smaller but densely settled northern region, where 88 percent of the farms are under 5 hectares in size, only 40 percent of the gross family income comes from farming. Wages and salaries account for one-third while commerce and artisan activities provide about one-fourth of the gross family income. Two-thirds of the families with farms under 5 hectares receive an average annual income from all sources at or below the official annual minimum wage. In the north region, extensive non-farm employment has both contributed to and resulted from the characteristic minifundio problem. In contrast to the poverty of very small landholders, the one-fifth of the sample households with 5 to 20 hectares earn markedly higher incomes from fewer income sources. Those with at least 10 hectares earn about 90 percent of their income from farming.

(4) Issues of cooperatives

Many of the collective properties and campesino organizations created by the reform process have collapsed in the face of strong pressures for individually owned properties. This trend may invite rampant minifundization and exacerbated threats to the fragile environment.

4. Conclusion

The most serious difficulties concerning land management in the Sierra are prevailing poverty of peasants with subfamily farms of less than 5 hectares, and the collapse of production cooperatives which is mainly caused by increasing economic gap among farmers in the same community.

As is shown in the case study of Chimborazo, there is an inverse relationship between farm size and the amount of income from the land. The peasants with less than 5 hectares tend to have more economic difficulties in sustaining their life by income from their small land, and consequently depend more on nonagricultural income resources such as labor wages and income from commerce and artisan activities. Underlying their problem is that they cannot gain access to financial institutions for credit, partly because they do not have a title to their land, and partly because their land is too small and their solvency is questioned by financial institutions.

Moreover, family farms tend to be divided into subfamily farms in the course of inheritance, and the increasing pressure of population in rural area accelerates subdivision of their farms. In this situation, cooperatives might be the only organization which can help

peasants with subfamily farms sustain their life, and maintain and improve their land for increased income from the land.

However, cooperatives are presently at the risk of collapse. The ties among members of the same cooperative are getting loose as a result of emergence of various economic situations among the members. They tend to claim privatization of properties owned by their cooperative.

Therefore, it is very critical for peasants with subfamily farms to sustain their life and agriculture that the Ecuadorian government strengthen functions of cooperatives by extending financial and technical assistance to the peasants through cooperatives.

CHAPTER 7

RECOMMENDATIONS

1. Summary of findings

- (1) There is still a highly skewed land distribution in Ecuador in spite of efforts of the government for agrarian reforms in the last several decades.
- (2) There are active informal land markets in the country. However, the younger generation of peasants tends to have more difficulties in gaining access to land, because of inadequate supply of land in the small farm sector and absence of credit for the purchase of land.
- (3) Peasants who have subfamily farms of less than 5 hectares tend to have more economic difficulties in sustaining their lives by the income from their land. They depend more on nonagricultural income resources such as labor wages and income from commerce and artisan activities. Underlying their problem is that they cannot gain access to financial institutions for credit, partly because they do not have title to their land, and partly because their land is too small and their solvency is questioned by financial institutions.
- (4) There is a serious problem in the basic land system which makes it very difficult for the government to implement its policies concerning property registration system, rural taxation system, rural credit system, land management and land use planning, and promotion of land market. This problem, together with lack of title to land, has caused insecurity of land tenure.
- (5) Tropical deforestation, soil erosion, and degradation of coastal ecosystem are getting serious in the country. This environmental degradation is mainly caused by inappropriate tenurial arrangements by the government.

2. Policy recommendations

- (1) It is very critical for the Ecuadorian government to continue to make efforts to promote redistribution of land from large land owners to landless and small farmers in order to improve the precarious conditions in their agriculture and daily lives as a short-term objective, and to establish a sustainable basis for agricultural development as a long-term objective.
- (2) The experiences of the Ecuadorian government in its agrarian reforms in the last several decades show that the conventional approach to the reforms through expropriation of unproductive land from large land owners has not been effective, mainly because of the limited financial capacity of the government to spend for compensation for expropriated land under the situation of chronic budgetary deficits, and partly because of political and administrative difficulties in enforcing expropriation of land for the reforms.
- (3) Under these circumstances, it is recommendable for the government to put emphasis on the land market activation approach in its efforts to realize more equitable distribution of land in agriculture. This approach aims at promoting redistribution of land from large land owners to small and landless farmers through activating land markets and supporting the latter in purchasing land in the markets.
- (4) In this approach, it is important for the government to increase market efficiency and make land markets more accessible to small and landless farmers. For this purpose, the government has

to take or reinforce the following measures: (a) eliminating subsidies, (b) modernizing land registration systems, (c) promoting land titling, and (d) establishing land banks and mortgage banks. The first measure in (a) will contribute to lowering land values of estates of large land owners who have been major recipients of such credits, and to the improvement of the bargaining position of small and landless farmers in the markets. The second measure in (b) includes reduction of official and unofficial transaction costs to encourage incentives of local people to follow official registration procedures. The third measure assumes that higher security of ownership causes higher farm productivity and market value of land, because provision of legal land title improves a farmer's access to credits. This measure also contributes to expanding the scope of land transactions. The fourth measure is expected to increase participation of small and landless farmers in land markets and to enhance their bargaining position (Carter and Mesbah, 1990, 17-24). These measures are effective, if they are implemented together, because they are closely interrelated to one another.

(5) In connection with the second measure in (b), it is to be mentioned that it is crucial for the government to establish a better basic land system which includes land a registration system in order to systematically formulate and implement land management and land conservation policies based on the information which will be gained through the basic land system.

(6) In addition to the land market activation approach, it is also important for the government to strengthen technical assistance to small and landless farmers so that they can improve their agricultural production. The technical assistance not only help these farmers increase their income from agricultural production, but also contribute to prevention of excess exploitation of land. Improvement of market access of these farmers is also critical for the increase of their income.

(7) Finally, it is recommendable for the government to make more efforts to keep a balance between industrial and agricultural sectors, because these two sectors are interdependent to each other in their development processes. Moreover, it is also important to keep a balance between the export sector and the domestic market sector in agriculture so that the country can attain self-sufficiency of staple crops.

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